

4  
5  
Sub D8  
C7 sterilization tunnel wherein the sterilant concentration levels vary by at least a ratio of .1 ppm / .5

ppm; and

means for providing a plurality of gas flow rates within the sterilization tunnel.

1  
2  
3  
Sub D8  
C8 39 (NEW) The apparatus of claim 1, wherein the sterilant concentration levels vary by at least a  
ratio of .1 ppm / 1000 ppm.

### REMARKS

Claims 1-38 are currently pending, applicant has canceled claims 4 and 34. Claim 39 is hereby added.

Claims 3 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in using the term "operatively attached" and for being "too broad and nebulous" in using the phrase "control system". Applicant respectfully traverses the rejection as follows. "Operatively attached" is a commonly accepted term in patent claim drafting relating to how the parts are interrelated. The United States Patent and Trademark Office issues a plethora of patents using the claim language "operatively attached". By way of example, according to the PTO web site, the PTO has issued 657 patents in 1996-2002 alone, using the claim language "operatively attached". Furthermore, Applicant is unaware of any citation in the MPEP, statutes, or case law which preclude such language. As to the second item, the phrase "control system" of the present invention is a system which automatically adjusts the operational parameters of the various components of the apparatus. The control system of the present invention is discussed throughout the specification (e.g., pages 14, 17-19, 21, 24, 25, 31, 35) and in greater detail

towards the end of the specification (See pages 44-49).

Claims 1-2, 17-22, 27, 29, 33-34 and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelbrick et al. Applicant respectfully traverses the rejection as follows.

The Examiner contends that "Kelbrick et al intrinsically discloses a similar device to sterilize containers using multiple numbers of nozzle sprayed with hydrogen peroxide at different levels of concentration (*see entire document*)." (Emphasis added). Further, the Examiner contends that Kelbrick et al. "teaches that the concentration of hydrogen peroxide can be reduced to 0.5 ppm (column 6, lines 1-5)." Kelbrick et al. fails to teach or suggest each and every element of the present invention. Kelbrick et al. fails to teach or suggest, *inter alia*, "a plurality of zones within a sterilization tunnel **having different sterilant concentration levels** introduced therein wherein the sterilant concentration levels **vary by at least a ratio of .1 ppm / . 5 ppm,**" as recited in claim 1. Kelbrick et al. fails to teach or suggest, *inter alia*, "...a plurality of **sterilant concentration zones** within the sterilization tunnel ... wherein the sterilant concentration levels **vary by at least a ratio of .1 ppm / .5 ppm**" as recited in claim 3. Kelbrick et al. fails to teach or suggest, *inter alia*, "...at least one partition forming a plurality of **sterilant concentration zones** within the sterilization tunnel wherein the sterilant concentration levels **vary by at least a ratio of .1 ppm / .5 ppm,**" as recited in claim 17. Kelbrick et al. fails to teach or suggest, *inter alia*, "...providing a **plurality of sterilant concentration zones** within the sterilization tunnel wherein the sterilant concentration levels **vary by at least a ratio of .1 ppm / .5 ppm**", as recited in claim 33. Furthermore, Kelbrick et al. fails to teach or suggest, *inter alia*, "**means for providing a plurality of sterilant concentration zones** within the sterilization tunnel wherein the sterilant concentration levels **vary by at least a ratio of .1 ppm /**

.5 ppm," as recited in claim 38. Kelbrick et al. does appear to allow for the concentration level of the sterilant in the single cabinet 11 to passively change, merely by the passage of time. Kelbrick et al. does not teach or suggest separate sterilant concentration zones. The present invention is a completely different invention. The present invention discloses a plurality of concentration zones whereby different sterilant concentrations can be introduced in different zones. Further, the Examiner alleges in item 6 of the Responses to Applicant's Arguments section of the Office Action that "Applicant admits the limitation plurality concentration of sterilant reads on the Kelbrick et al. reference". The Applicant respectfully requests for the specific location of this admission in the correspondence submitted by the Applicant. Further, the Applicant is unclear as to where the Examiner derived the basis for this alleged admission. Accordingly, Applicant submits that independent claims 1, 3, 17, 33, and 38 are allowable.

Claims 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelbrick et al. in view of Petho et al. Claims 3, 5-16 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelbrick et al. in view of Petho et al. as applied to claims 1-2 and 33 above, and further in view of Hoshino. Neither Petho et al. nor Hoshino either alone, or in combination, rectify the glaring deficiency of Kelbrick et al. as stated above. Thus, these 103(a) rejections should also be withdrawn.

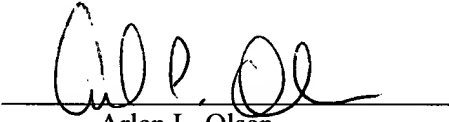
As presented in the arguments above, Applicant asserts that independent claim 1 is allowable. Thus, Applicant respectfully submits that claims 2 and 39 which are dependent on 1 is allowable. Applicant asserts that independent claim 3 is allowable. Thus, Applicant respectfully submits that claims 5-16 that are dependent on claim 3 are allowable. Applicant asserts that independent claim 33 is allowable. Thus, Applicant respectfully submits that claims

35-37 that are dependent on claim 33 are allowable. Applicant asserts that independent claim 38 is allowable.

### CONCLUSION

In summary, based on the preceding arguments, Applicant respectfully believes that all independent claims and dependent claims meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicant invites the Examiner to contact Applicant's representative at the telephone number listed below.

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